

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DAVID CLEAVES,

Petitioner,

v.

LOUIS FOLINIO, *et al.*,

Respondents.

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CIVIL ACTION

NO. 10-7263

ORDER

AND NOW, this 28th day of September 2012, after a careful and independent *de novo* review of the Report and Recommendation (Doc. No. 11), Petitioner's Objections (Doc. No. 14), and the entire record in this case, and for the reasons stated in the accompanying opinion, it is hereby **ORDERED** as follows:

1. The Report and Recommendation is **APPROVED and ADOPTED**;
2. The Petition (Doc. No. 1) is **DENIED**;
3. Petitioner's Objections are **OVERRULED**; and
4. A Certificate of Appealability **SHALL NOT ISSUE**.

The Clerk of Court is directed to **CLOSE** this case.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.